

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHAROD HALE,)	CASE NO. 5:17-CV-742
)	
Plaintiff,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>OPINION AND ORDER</u>
)	
JOHN TURNURE, et al.,)	
)	
Defendants.)	

Before the Court is Plaintiff's Motion to Compel Discovery ("Motion"). Doc #: 24.

Plaintiff filed his Motion on April 19, 2018. The Court directed Defendants to respond to the Motion by April 23, 2018. Order [Non-Document]. Defendants filed their Response on April 23, 2018. Doc #: 25.

Plaintiff alleges that he served interrogatories and requests for production on Defendants on March 16, 2018. Mot. 2. He alleges that Defendants have not responded to his requests as required by Federal Rule of Procedure 34(a). The Federal Rules require that a party respond within 30 days after being served with interrogatories and requests for production. Fed. R. Civ. Pro 33(b)(2) and 34(b)(2). Thus, Defendants should have responded to Plaintiff's requests by April 16, 2018. Defendants concede that they have not timely responded to Plaintiff's requests

but argue that Plaintiff did not follow Local Rule 37.1's discovery dispute procedure before filing his Motion. Resp. 2.

Local Rule 37.1 provides the procedure for addressing discovery disputes like the one at issue. First, the rule requires that a party make a good faith effort to resolve a discovery dispute. If the parties cannot resolve the discovery dispute themselves, they may request a teleconference with the Court. Local Rule 37.1(2). If the teleconference does not resolve the dispute, the Court will request letter briefs from the parties. Local Rule 37.1(3). If the Court is still unable to resolve the dispute, a party may file a motion to compel. Local Rule 37.1(4). Plaintiff does not allege that he contacted Defendants' counsel prior to filing his Motion. Plaintiff did not contact the Court and request a teleconference or Court assistance in resolving the dispute, as is required under Local Rule 37.1. Thus, Plaintiff did not follow Local Rule 37.1 before filing his Motion. But as the saying goes, two wrongs do not make a right. Plaintiff's failure to comply with Local Rule 37.1 does not excuse Defendants' failure to timely respond to Plaintiff's requests.

However, Defendants claim that they are in the process of responding to Plaintiff's requests so Court intervention at this time is unnecessary. Accordingly, Plaintiff's Motion is **DENIED** as moot. Defendants should respond to Plaintiff's requests within 14 days of the entry of this order.

IT IS SO ORDERED.

/s/ Dan A. Polster Apr. 24, 2018
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE